

AMENDED IN SENATE MAY 5, 2015

SENATE BILL

No. 162

Introduced by Senator Galgiani

February 3, 2015

An act to amend Section 25150.7 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 162, as amended, Galgiani. Treated wood waste: disposal.

(1) Existing law requires, among other things, treated wood waste, as defined, to be disposed of in either a class I hazardous waste landfill, or in a composite-lined portion of a solid waste landfill unit that meets certain requirements. Existing law *requires the Department of Toxic Substances Control to adopt, and revise as necessary, regulations establishing management standards for treated wood waste, as specified, subject to specified limitations. Existing law* makes these, and other requirements regarding treated wood waste, inoperative on June 1, 2017, *but provides that a regulation adopted pursuant to these provisions on or before June 1, 2012, continues in force and effect until repealed or revised.* A violation of the state's hazardous waste control laws is a crime.

This bill would *remove those limitations for treated wood waste regulations adopted by the department, would* extend the operation of these provisions regarding treated wood waste ~~indefinitely to June 1, 2020, and would repeal the language continuing in force and effect~~ *treated waste wood regulations adopted on or before June 1, 2012.* By extending the operation of a crime, the bill would impose a state-mandated local program. *The bill would require, on or before January 1, 2018, the department to prepare, post on its Internet Web*

site, and provide to the appropriate policy committees of the Legislature, a comprehensive report with specified content on the compliance with, and implementation of, these laws relating to treated wood waste.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25150.7 of the Health and Safety Code
2 is amended to read:

3 25150.7. (a) The Legislature finds and declares that this section
4 is intended to address the unique circumstances associated with
5 the generation and management of treated wood waste. The
6 Legislature further declares that this section does not set a
7 precedent applicable to the management, including disposal, of
8 other hazardous wastes.

9 (b) For purposes of this section, the following definitions shall
10 apply:

11 (1) "Treated wood" means wood that has been treated with a
12 chemical preservative for purposes of protecting the wood against
13 attacks from insects, microorganisms, fungi, and other
14 environmental conditions that can lead to decay of the ~~wood~~ wood,
15 and the chemical preservative is registered pursuant to the Federal
16 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et
17 seq.).

18 (2) "Wood preserving industry" means business concerns, other
19 than retailers, that manufacture or sell treated wood products in
20 the state.

21 (c) This section applies only to treated wood waste ~~that that,~~
22 *solely due to the presence of a preservative in the wood*, is a
23 hazardous ~~waste, solely due to the presence of a preservative in~~
24 ~~the wood, waste~~ and to which both of the following requirements
25 apply:

26 (1) The treated wood waste is not subject to regulation as a
27 hazardous waste under the federal act.

1 (2) Section 25143.1.5 does not apply to the treated wood waste.

2 (d) (1) Notwithstanding Sections 25189.5 and 25201, treated
3 wood waste shall be disposed of in either a class I hazardous waste
4 landfill, or in a composite-lined portion of a solid waste landfill
5 unit that meets all requirements applicable to disposal of municipal
6 solid waste in California after October 9, 1993, and that is regulated
7 by waste discharge requirements issued pursuant to Division 7
8 (commencing with Section 13000) of the Water Code for
9 discharges of designated waste, as defined in Section 13173 of the
10 Water Code, or treated wood waste.

11 (2) A solid waste landfill that accepts treated wood waste shall
12 comply with all of the following requirements:

13 (A) Manage the treated wood waste ~~so as~~ to prevent scavenging.

14 (B) Ensure that any management of the treated wood waste at
15 the solid waste landfill ~~prior to~~ *before* disposal, or in lieu of
16 disposal, complies with the applicable requirements of this chapter,
17 except as otherwise provided by regulations adopted pursuant to
18 subdivision (f).

19 (C) If monitoring at the composite-lined portion of a landfill
20 unit at which treated wood waste has been disposed of indicates
21 a verified release, then treated wood waste shall ~~no longer~~ *not* be
22 discharged to that landfill unit until corrective action results in
23 cessation of the release.

24 (e) (1) Each wholesaler and retailer of treated wood and treated
25 wood-like products in this state shall conspicuously post
26 information at or near the point of display or customer selection
27 of treated wood and treated wood-like products used for fencing,
28 decking, retaining walls, landscaping, outdoor structures, and
29 similar uses. The information shall be provided to wholesalers and
30 retailers by the wood preserving industry in 22-point font, or larger,
31 and contain the following message:

32
33 **Warning—Potential Danger**

34
35 These products are treated with wood preservatives registered
36 with the United States Environmental Protection Agency and the
37 California Department of Pesticide Regulation and should only be
38 used in compliance with the product labels.

39 This wood may contain chemicals classified by the State of
40 California as hazardous and should be handled and disposed of

1 with care. Check product label for specific preservative information
2 and Proposition 65 warnings concerning presence of chemicals
3 known to the State of California to cause cancer or birth defects.

4 Anyone working with treated wood, and anyone removing old
5 treated wood, needs to take precautions to minimize exposure to
6 themselves, children, pets, or wildlife, including:

7
8 ☐ Avoid contact with skin. Wear gloves and long sleeved shirts
9 when working with treated wood. Wash exposed areas thoroughly
10 with mild soap and water after working with treated wood.

11
12 ☐ Wear a dust mask when machining any wood to reduce the
13 inhalation of wood dusts. Avoid frequent or prolonged inhalation
14 of sawdust from treated wood. Machining operations should be
15 performed outdoors whenever possible to avoid indoor
16 accumulations of airborne sawdust.

17
18 ☐ Wear appropriate eye protection to reduce the potential for eye
19 injury from wood particles and flying debris during machining.

20
21 ☐ If preservative or sawdust accumulates on clothes, launder
22 before reuse. Wash work clothes separately from other household
23 clothing.

24
25 ☐ Promptly clean up and remove all sawdust and scraps and
26 dispose of appropriately.

27
28 ☐ Do not use treated wood under circumstances where the
29 preservative may become a component of food or animal feed.

30
31 ☐ Only use treated wood that's visibly clean and free from surface
32 residue for patios, decks, or walkways.

33
34 ☐ Do not use treated wood where it may come in direct or indirect
35 contact with public drinking water, except for uses involving
36 incidental contact such as docks and bridges.

37
38 ☐ Do not use treated wood for mulch.
39

1 □ Do not burn treated wood. Preserved wood should not be burned
2 in open fires, stoves, or fireplaces.

3
4 For further information, go to the Internet Web site for the
5 Western Wood Preservers Institute (<http://www.wwpinstitute.org>)
6 or call the toll-free telephone number of the California Treated
7 Wood Information Hotline at 1-866-696-8315.

8
9 In addition to the above listed precautions, treated wood waste
10 shall be managed in compliance with applicable hazardous waste
11 control laws.

12 (2) On or before July 1, 2005, the wood preserving industry
13 shall, jointly and in consultation with the department, make
14 information available to generators of treated wood waste,
15 including fencing, ~~decking~~ *decking*, and landscape contractors,
16 solid waste landfills, and transporters, that describes how to best
17 handle, dispose of, and otherwise manage treated wood waste,
18 through the use either of a toll-free telephone number, Internet
19 Web site, information labeled on the treated wood, information
20 accompanying the sale of the treated wood, or by mailing if the
21 department determines that mailing is feasible and other methods
22 of communication would not be as effective. A treated wood
23 manufacturer or supplier to a wholesaler or retailer shall also
24 provide the information with each shipment of treated wood
25 products to a wholesaler or retailer, and the wood preserving
26 industry shall provide it to fencing, decking, and landscaping
27 contractors, by mail, using the Contractors' State License Board's
28 available listings, and license application packages. The department
29 may provide guidance to the wood preserving industry, to the
30 extent resources permit.

31 (f) (1) On or before January 1, 2007, the department, in
32 consultation with the Department of Resources Recycling and
33 Recovery, the State Water Resources Control Board, and the Office
34 of Environmental Health Hazard Assessment, and after
35 consideration of any known health hazards associated with treated
36 wood waste, shall adopt and may subsequently revise as necessary,
37 regulations establishing management standards for treated wood
38 waste as an alternative to the requirements specified in this chapter
39 and the regulations adopted pursuant to this chapter.

(2) The regulations adopted pursuant to this subdivision shall, at a minimum, ensure all of the following:

(A) Treated wood waste is properly stored, treated, transported, tracked, disposed of, and otherwise managed so as to prevent, to the extent practical, releases of hazardous constituents to the environment, prevent scavenging, and prevent harmful exposure of people, including workers and children, aquatic life, and animals to hazardous chemical constituents of the treated wood waste.

(B) Treated wood waste is not reused, with or without treatment, except for a purpose that is consistent with the approved use of the preservative with which the wood has been treated. For purposes of this subparagraph, “approved uses” means a use approved at the time the treated wood waste is reused.

(C) Treated wood waste is managed in accordance with all applicable laws.

(D) Any size reduction of treated wood waste is conducted in a manner that prevents the uncontrolled release of hazardous constituents to the environment, and that conforms to applicable worker health and safety requirements.

(E) All sawdust and other particles generated during size reduction are captured and managed as treated wood waste.

(F) All employees involved in the acceptance, storage, transport, and other management of treated wood waste are trained in the safe and legal management of treated wood waste, including, but not limited to, procedures for identifying and segregating treated wood waste.

~~(3) This subdivision does not authorize the department to adopt a regulation that does one or more of the following:~~

~~(A) Imposes a requirement as an addition to, rather than as an alternative to, one or more of the requirements of this chapter.~~

~~(B) Supersedes subdivision (d) concerning the disposal of treated wood waste.~~

~~(C) Supersedes any other provision of this chapter that provides a conditional or unconditional exclusion, exemption, or exception to a requirement of this chapter or the regulations adopted pursuant to this chapter, except the department may adopt a regulation pursuant to this subdivision that provides an alternative condition for a requirement specified in this chapter for an exclusion, exemption, or exception and that allows an affected person to choose between complying with the requirements specified in this~~

1 ~~chapter or complying with the alternative conditions set forth in~~
2 ~~the regulation.~~

3 (g) (1) A person managing treated wood waste who is subject
4 to a requirement of this chapter, including a regulation adopted
5 pursuant to this chapter, shall comply with either the alternative
6 standard specified in the regulations adopted pursuant to
7 subdivision (f) or with the requirements of this chapter.

8 (2) A person who is in compliance with the alternative standard
9 specified in the regulations adopted pursuant to subdivision (f) is
10 deemed to be in compliance with the requirement of this chapter
11 for which the regulation is identified as being an alternative, and
12 the department and any other entity authorized to enforce this
13 chapter shall consider that person to be in compliance with that
14 requirement of this chapter.

15 (h) On January 1, 2005, all variances granted by the department
16 before January 1, 2005, governing the management of treated wood
17 waste are inoperative and have no further effect.

18 (i) This section does not limit the authority or responsibility of
19 the department to adopt regulations under any other law.

20 (j) *(1) On or before January 1, 2018, the department shall*
21 *prepare, post on its Internet Web site, and provide to the*
22 *appropriate policy committees of the Legislature, a comprehensive*
23 *report on the compliance with, and implementation of, this section.*
24 *The report shall include, but not be limited to, all of the following:*

25 (A) *Data, and evaluation of that data, on the rates of compliance*
26 *with this section and injuries associated with handling treated*
27 *wood waste based on department inspections of treated wood*
28 *waste generator sites and treated wood waste disposal facilities.*
29 *The department shall inspect a representative number of treated*
30 *wood waste generator sites and treated wood waste disposal*
31 *facilities, which shall not to be less than 25 percent of each.*

32 (B) *An evaluation of the adequacy of protective measures taken*
33 *in tracking, handling, and disposing of treated wood waste.*

34 (C) *Data regarding the unauthorized disposal of treated wood*
35 *waste at disposal facilities that have not been approved for that*
36 *disposal.*

37 (D) *Conclusions regarding the handling of treated wood waste.*

38 (E) *Recommendations for changes to the handling of treated*
39 *wood waste to ensure the protection of public health and the*
40 *environment.*

1 (2) *The requirement for submitting a report imposed under this*
2 *subdivision is inoperative on January 1, 2022, pursuant to Section*
3 *10231.5 of the Government Code.*

4 (k) *This section shall become inoperative on June 1, 2020, and,*
5 *as of January 1, 2021, is repealed, unless a later enacted statute,*
6 *that becomes operative on or before January 1, 2021, deletes or*
7 *extends the dates on which it becomes inoperative and is repealed.*

8 SEC. 2. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.